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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,014	01/03/2001	Jeff Nordstrom	260/056	2763
25746	7590	02/17/2006	EXAMINER	
WONG CABELLO LUTSCH RUTHERFORD & BRUCCULERI, LLP 20333 SH 249, SUITE 600 HOUSTON, TX 77070			SULLIVAN, DANIEL M	
		ART UNIT		PAPER NUMBER
				1636

DATE MAILED: 02/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/754,014	NORDSTROM ET AL.	
	Examiner Daniel M. Sullivan	Art Unit 1636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 December 2005.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 5,10,14,51-54,65,69 and 72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 5,10,14,51-54,69 and 72 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) 65 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

This Office Action is a reply to the Paper filed 8 December 2005 in response to the Non-Final Office Action mailed 8 September 2005. Claims 5, 10, 14, 51-54, 65, 67 and 69-76 were considered in the 8 September Office Action. Claims 67, 70, 71 and 73-76 were canceled and claims 5, 10, 51, 54, 65 and 69 were amended in the 8 December Paper. Claims 5, 10, 14, 51-54, 65, 69 and 72 are pending and under consideration.

### ***Response to Amendment and Arguments***

Rejection of claims 67, 70, 71 and 73-76 is rendered moot by the cancellation thereof.

### **Specification**

The specification stands objected to under 35 U.S.C. 132 for the reasons set forth in the previous Office Actions regarding the lack of support for SEQ ID NO: 19 in the originally filed disclosure. Applicant's arguments with regard to support for the generic sequence set forth as SEQ ID NO: 18 are persuasive. However, for the reasons stated in the previous Office Actions, the specification does not contain explicit or implicit support for the sequence TTCTTTTTCTCTTCNYAGG (SEQ ID NO: 19).

In response to the objection, Applicant has filed an amendment to the specification which states "Please cancel SEQ ID NO: 19". However, the 8 December Paper does not include an amendment to remove the sequence added by amendment to paragraph 0093 in the Paper filed 23 January 2005, nor does it include a substitute sequence listing and CRF that does not contain SEQ ID NO: 19. In the absence of these amendments, the meaning of Applicant's instruction to

“cancel SEQ ID NO: 19” is unclear. Nevertheless, so long as the specification and sequence listing contain the sequence set forth in the amendment as SEQ ID NO: 19, the specification will stand objected to as containing new matter.

Claim Rejections - 35 USC § 112

Rejection of claims 5, 10, 14, 51-54, 65, 69 and 72 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn in view of the amendments to the claims and Applicant’s arguments.

Claim Rejections - 35 USC § 103

Rejection of claims 5 under 35 U.S.C. 103(a) as being unpatentable over either one of Mascarenhas (IDS #CS) or Petitclerc (1995) *J. Biotechnol* 40:169-178 in view of any one of Mulvihill et al. (IDS #AC), Carrano et al. (IDS AD) or Ligon et al. (IDS AE); rejection of claims 10 and 51 under 35 U.S.C. 103(a) as being unpatentable over Mascarenhas or Petitclerc in view of Mulvihill, Carrano or Ligon, as applied to claim 1 above and in further view of Zitvogel; and rejection of claim 14 under 35 U.S.C. 103(a) as being unpatentable over Dirks et al. (IDS #CT) in view of Rautmann and Breathnach (1985) *Nature* 315:169-178 is withdrawn in view of the amendments to the claims.

***New Grounds Necessitated by Amendment***

Claim Objections

Claim 65 is objected to because of the following informalities: The claim has been amended to remove the sequence identifier for SEQ ID NO: 18. “Where the description or claims of a patent application discuss a sequence that is set forth in the ‘Sequence Listing’ in accordance with paragraph (c) of this section, reference must be made to the sequence by use of the sequence identifier, preceded by ‘SEQ ID NO:’ in the text of the description or claims, even if the sequence is also embedded in the text of the description or claims of the patent application” 37 C.F.R. 1.821(d).

*Allowable Subject Matter*

Claims 5, 10, 14, 51-54, 69 and 72 are allowed.

*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel M Sullivan whose telephone number is 571-272-0779. The examiner can normally be reached on Monday through Friday 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel, Ph.D. can be reached on 571-272-0781. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patent applicants with problems or questions regarding electronic images that can be viewed in the Patent Application Information Retrieval system (PAIR) (<http://pair-direct.uspto.gov>) can now contact the USPTO's Patent Electronic Business Center (Patent EBC) for assistance. Representatives are available to answer your questions daily from 6 am to midnight (EST). The toll free number is (866) 217-9197. When calling please have your application serial or patent number, the type of document you are having an image problem with, the number of pages and the specific nature of the problem. The Patent Electronic Business Center will notify applicants of the resolution of the problem within 5-7 business days. Applicants can also check PAIR to confirm that the problem has been corrected. The USPTO's Patent Electronic Business Center is a complete service center supporting all patent business on the Internet. The USPTO's PAIR system provides Internet-based access to patent application status and history information. It also enables applicants to view the scanned images of their own application file folder(s) as well as general patent information available to the public.

For all other customer support, please call the USPTO Call Center (UCC) at 800-786-9199.

Daniel M. Sullivan, Ph.D.  
Examiner  
Art Unit 1636



**DANIEL M. SULLIVAN**  
**PATENT EXAMINER**